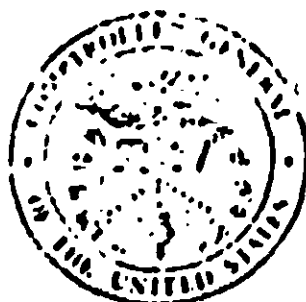


DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

PKC

8/15

FILE: B-193033

DATE: October 25, 1978

MATTER OF: Dictaphone Corporation

DIGEST:

1. Question of whether contractor is able to perform contract in conformance with the specifications is matter of bidder responsibility, and not for consideration by our Office, except in circumstances not present here.
2. Protest against alleged impropriety in solicitation (no provision for total life cycle cost evaluation) apparent prior to bid opening which was not filed until after bid opening is untimely under section 20.2(b)(1) of GAO's Bid Protest Procedures.

Dictaphone Corporation protests against award of a contract to Washington Office Products by the Civil Service Commission (CSC) under invitation for bids No. CS-IFB-19-78.

Dictaphone challenges Washington Office Products' ability to meet the service facilities section of the solicitation. In addition, Dictaphone believes the solicitation should have provided for an evaluation of total life cycle costs.

The question of Washington Office Products' ability to perform the required services in conformance with the specifications is a matter of affirmatively determined bidder responsibility, which is not for consideration by our Office, except in circumstances not present here. Masoneilan Regulator Company, B-188980, February 24, 1978, 78-1 CPD 154.

In regard to consideration of the total life cycle cost evaluation of the equipment, we have been advised by CSC that no provision was made in the specifications for such an evaluation. We have further been advised by CSC that the date for bid opening was August 10, 1978, and award was made to Washington Office Products on September 6, 1978. We received Dictaphone's protest on September 28, 1978.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978), provides, in pertinent part as follows:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals* * *."

Therefore, since Dictaphone did not protest before bid opening (August 10) the alleged impropriety in the solicitation (no provision for total life cycle cost evaluation), the protest is untimely and not for consideration by our Office. Masoneilan Regulator Company, supra.

In view of the above, the protest is dismissed.

for *Milton J. Dembling*
Paul G. Dembling
General Counsel